

August 2010
High-level Waste Hearings
Summary Table

High-Level Waste hearing

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ORDERS Electronic Hearing Docket Board Orders for August - CAB 4

Date	August 10	August 10	
	<p><u>DECISION ON THE MOTION OF THE STATE OF WASHINGTON, THE STATE OF SOUTH CAROLINA, AIKEN COUNTY, SOUTH CAROLINA, AND WHITE PINE COUNTY, NEVADA FOR RECUSAL/DISQUALIFICATION</u> William D. Magwood Conclusion I have considered carefully the motion seeking my disqualification and the applicable legal standards. I find no basis for my recusal and respectfully decline to recuse myself from the matters before the Commission in this proceeding.</p>	<p><u>DECISION ON THE MOTION OF THE STATE OF WASHINGTON, THE STATE OF SOUTH CAROLINA, AIKEN COUNTY, SOUTH CAROLINA, AND WHITE PINE COUNTY, NEVADA FOR RECUSAL/DISQUALIFICATION</u> IV. Conclusion Throughout my many years of federal service, my ability to objectively and fairly consider the matters that have demanded my attention has never been challenged. In my role as an NRC Commissioner, I have objectively and fairly considered and decided on all of the matters that have been brought before me based on their individual merits, and without prejudice. This is also the case in this particular proceeding.</p>	

MOTIONS AND PLEADINGS

Date	August 2	August 2	August 2
	<p><u>Dear Congressman Sensenbrenner:</u> I am responding to your letter to Chairman Jaczko, dated July 15, 2010, relating to the pending adjudicatory proceeding that is associated with the U.S. Department of Energy's (DOE) application for the proposed Yucca Mountain high-level waste repository. You request, among other things, that the Commission leave in place the decision of the Construction Authorization Board to deny the U.S. Department of Energy's motion to withdraw its request for authorization to construct a high-level nuclear waste repository at Yucca Mountain, Nevada.</p> <p>Your letter addresses matters which the Commission has under advisement in its adjudicatory capacity, and which it will decide with due consideration to applicable law. Given the pendency of the adjudicatory proceeding, therefore, the Commission cannot discuss or comment on issues involved in this matter, including those raised in your letter.</p> <p>A copy of your letter and this response will be served on the participants in the Yucca Mountain proceeding. In addition, WE will keep you informed of the Commission's decisions in this matter.</p> <p>Sincerely, Annette L. Vietti-Cook</p>	<p><u>Dear Senator Delvin:</u> I am responding to your letter to Chairman Jaczko, dated June 9, 2010, relating to the pending adjudicatory proceeding that is associated with the U.S. Department of Energy's (DOE) application for the proposed Yucca Mountain high-level waste repository. Among other things, you question DOE's authority to discontinue consideration of its application for authorization to construct a high-level nuclear waste repository at Yucca Mountain, Nevada.</p> <p>Your letter addresses matters which the Commission has under advisement in its adjudicatory capacity, and which it will decide with due consideration to applicable law. Given the pendency of the adjudicatory proceeding, therefore, the Commission cannot discuss or comment on issues involved in this matter, including those raised in your letter. A copy of your letter and this response will be served on the participants in the Yucca Mountain proceeding.</p> <p>Annette L. Vietti-Cook</p>	<p><u>Dear Mr. Shepherd:</u> I am responding to your letter dated July 1, 2010, addressed to members of the Commission, related to the pending adjudicatory proceeding that is associated with the U.S. Department of Energy's (DOE) application for the proposed Yucca Mountain high level waste repository. Among other things, you state your support for the repository, and you request that the Commission leave in place the decision of the Construction Authorization Board to deny DOE's motion to withdraw its request for authorization to construct a high-level nuclear waste repository at Yucca Mountain, Nevada.</p> <p>Your letter addresses matters which the Commission has under advisement in its adjudicatory capacity, and which it will decide with due consideration to applicable law. Given the pendency (If the adjudicatory proceeding, therefore, the Commission cannot discuss or comment on issues involved in this matter, including those raised in your letter.</p> <p>A copy of your letter and this response will be served on the participants in the <i>Yucca Mountain</i> proceeding.</p> <p>Sincerely, Annette L. Vietti-Cook</p>
Date	August 2	August 2	August 9
	<p><u>Dear Mr. Duarte:</u> I am responding to your letter dated July 4, 2010, addressed to Chairman Jaczko and members of the Commission, related to the pending adjudicatory proceeding that is associated with the U.S. Department of Energy's (DOE) application for the proposed Yucca Mountain high-level waste repository. You request, among other things, that the "Yucca Mountain facility be put back on track."</p> <p>Your letter addresses matters which the Commission has under advisement in its adjudicatory capacity, and which it will decide with due consideration to applicable law.</p> <p>Given the pendency of the adjudicatory proceeding, therefore, the Commission cannot discuss or comment on issues involved in this matter, including those raised in your letter.</p> <p>A copy of your letter and this response will be served on the participants in the <i>Yucca Mountain</i> proceeding.</p> <p>Sincerely, Annette L. Vietti-Cook</p>	<p><u>Dear Senator Hewitt:</u> I am responding to your letter to Chairman Jaczko and the Commission, dated July 16, 2010, relating to the pending adjudicatory proceeding that is associated with the U.S. Department of Energy's (DOE) application for the proposed Yucca Mountain high-level waste repository. Among other things, you state your support for the repository, and your request that the Commission approve the election of the Construction Authorization Board denying DOE's motion to withdraw the construction authorization application. Your letter addresses matters which the Commission has under advisement in its adjudicatory capacity, and which it will decide with due consideration to applicable law. Given the pendency of the adjudicatory proceeding, therefore, the Commission cannot discuss or comment on issues involved in this matter, including those raised in your letter.</p>	<p><u>Dear Congressman Hastings:</u> I am responding to your letter dated August 17, 2010, addressed to Chairman Jaczko, related to the pending adjudicatory proceeding that is associated with the U.S. Department of Energy's (DOE) application for the proposed Yucca Mountain high-level waste repository. You request that the Commission "decide on the merits of the claim that DOE acted illegally in seeking to withdraw its license application without delay." Given the pendency of the adjudicatory proceeding the Commission cannot discuss or comment on issues involved in this matter. However, please be assured that the Commission, in its adjudicatory capacity and with due consideration to applicable law, is moving with all due haste in arriving at a decision relative to review of the Atomic Safety and Licensing Board decision LBP-10-11. A copy of your letter and this response will be served on the participants in the <i>Yucca Mountain</i> proceeding. In addition, we will keep you informed of the Commission's decisions in this matter.</p>

Date	August 19	August 23	August 24
	<p>STATE OF NEVADA'S SECOND OTHER WITNESS IDENTIFICATION UPDATE Pursuant to Section C.1 of CAB Case Management Order #2 (September 30, 2009), the State of Nevada ("Nevada") does not have any additional names to add to its "Other Witness" list at this time.</p> <p>Nevada believes that the parties' duty to update their "Party" witness lists, and "Other" witness lists, has been revived due to the CAB's Memorandum and Order of June 29, denying DOE's Motion to Withdraw. Accordingly, Nevada will also update its "Party" witness list shortly.</p>	<p>NRC issues safety evaluation report. The Nuclear Regulatory Commission staff has issued its "Safety Evaluation Report Related to Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada, Volume 1: General Information" (NUREG-1949, Vol. 1). http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/.</p>	<p>STATE OF NEVADA THIRD UPDATE TO ITS PARTY WITNESS LIST FOR PHASE I DISCOVERY In accordance with Case Management Order #2 (CMO #2) dated September 30, 2009 (at 5-6), the State of Nevada hereby files its Third Update to Its Party Witness List for Phase I Discovery and states that no additional Party Witnesses have been identified since the time of its last update filed on February 8, 2010.</p>
Date	August 9	August 27	August 27
	<p>COUNTY OF INYO'S SECOND OTHER WITNESS IDENTIFICATION UPDATE The County of Inyo, California ("Inyo County") does not have any names to add to its "Other Witness" list at this time. Two of Inyo County's contentions, INY-SAFETY-003 and INY-NEPA-006, have been admitted to this proceeding and are identified in CAB Case Management Order #2 as being associated with Phase I discovery. On October 31, 2009, Inyo County identified the "Other Witnesses" associated with its Phase I discovery contentions. Inyo County hereby certifies that no additional "Other Witnesses" have been identified since October 31, 2009 with regard to INYO-NEPA-006</p>	<p>NRC STAFF UPDATED IDENTIFICATION OF WITNESSES RELATED TO PHASE 1 NEPA CONTENTIONS The NRC Staff (Staff) is filing this update pursuant to the Construction Authorization Board 04's September 30, 2010, order which directed the Staff, with respect to Phase I NEPA contentions, to identify and update every sixty days, witnesses it intends to call at the hearing in support or defense of Phase 1 NEPA contentions. <i>See id.</i> at 5-6. The Staff identified four Party Witnesses on October 8, 2009, and has not identified any additional witnesses in its subsequent filings regarding witnesses.1 At this time, the staff has identified no additional witnesses.</p>	<p>NRC STAFF UPDATED IDENTIFICATION OF WITNESSES RELATED TO PHASE 1 NEPA CONTENTIONS The NRC Staff (Staff) is filing this update pursuant to the Construction Authorization Board 04's September 30, 2010, order which directed the Staff, with respect to Phase I NEPA contentions, to identify and update every sixty days, witnesses it intends to call at the hearing in support or defense of Phase 1 NEPA contentions. <i>See id.</i> at 5-6. The Staff identified four Party Witnesses on October 8, 2009, and has not identified any additional witnesses in its subsequent filings regarding witnesses. At this time, the staff has identified no additional witnesses.</p>
Date	August 30	August 30	Continued
	<p>WHITE PINE COUNTY PARTY WITNESS IDENTIFICATION UPDATE Pursuant to the September 30, 2009 CAB Case Management Order #2 ("Order"), White Pine County provides notification that it has identified no additional Party Witnesses.</p>	<p>CLARK COUNTY, NEVADA'S CERTIFICATION OF NO ADDITIONAL OTHER WITNESSES Pursuant to Section C.1 of "CAB Case Management Order #2" ("CMO #2") issued on September 30, 2009, Clark County, Nevada ("Clark County") hereby submits this Certification of No Additional Other Witnesses. Fourteen (14) of Clark County's contentions have been admitted to the proceeding.1 Eleven (11) of Clark County's admitted contentions are identified in CMO #2 and an Order issued on December 9, 2009 as being associated with Phase I discovery. CMO #2 required the parties to identify any witness that it intends to depose if that witness was not previously identified as a "Party Witness" in Phase I discovery within 30 days of opening discovery ("Other Witnesses").</p>	<p>(Clark County – continued from left column) On November 2, 2009, Clark County identified Other Witnesses associated with its Phase I discovery contentions. On January 4, 2010, Clark County submitted a Certification of No Additional Other Witnesses, in compliance with CMO #2.5 Clark County hereby certifies that no additional Other Witnesses have been identified since its initial Identification of Other Witnesses on November 2, 2009.</p>